

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:)
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Zhang, et al.)
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Serial No. 10/616,319)
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Filed: July 9, 2003)
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For: Ultrasound Breast Screening Device)
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Examiner: Mehta, Parikha Solanki)
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Group Art Unit: 3737)
)
Confirmation No. 1891)

Electronically Filed on April 25, 2008

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Paper responds to the Examiner's Answer mailed on April 15, 2008. The Applicants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-65 of the present application for the reasons set forth in the Appeal Brief and the following:

REMARKS

As an initial matter, the Applicants note that the Examiner has reconsidered and withdrawn the rejection of claims 2 and 25 under 35 U.S.C. § 112, first paragraph. Indeed, the Applicants respectfully submit that the pending claims of the present application satisfy all aspects of 35 U.S.C. § 112, first paragraph.

I. The Proposed Combination Of Shmulewitz And Adamkowski Does Not Describe, Teach Or Suggest At Least One Pivot Assembly Operatively Connected To Two Compression Plates, As Recited In Independent Claims 1, 24 And 52

The Examiner now asserts, for the first time, that Adamkowski somehow discloses “at least one pivot assembly being operatively connected **to each of said first and second compression plates,**” as recited in claims 1 and 52, or “at least one pivot assembly being operatively connected **to each of said upper and lower compression plates,**” as recited in claim 24. The Examiner relies on a novel, subjective and overly expansive definition of “operatively connected” to somehow read the claims on what is shown and described in Adamkowski. *See* Examiner’s Answer at pages 7-8. In particular, the Examiner now summarily concludes that “[s]ince the pivot assembly of Adamkowski (‘327) established a nonzero angular relationship between the first and second compression plate, it can thus be said that the reference pivot is operatively connected to each of the two reference compression plates.” *See* Examiner’s Answer at pages 7-8.

The Applicants note, however, that “connect” is defined as, *inter alia*, “to become joined.” *See* Merriam-Webster’s Collegiate Dictionary, 10th Edition at page 244. As clearly

discussed in the Appeal Brief, and as seemingly acknowledged by the Examiner in the final Office Action, the proposed combination of references does not describe, teach or suggest “at least one pivot assembly being operatively connected **to each of said first and second compression plates,**” as recited in claims 1 and 52, for example, which is summarized in the Summary of Claimed Subject Matter. *See* Appeal Brief at pages 3, 5-6, 8 and 14-21. Indeed, while Adamkowski discloses that the compression surface 32 is joined to pivots 34a and 34b, the **breast supporting surface 20** clearly is **not in any way connected** to those pivots, or any other pivots. *See* Adamkowski at column 2, lines 44-50, 57-62 and Figures 1 and 2. That is, the pivots 34a and 34b are connected, and operate, to pivot only the compression surface 32. The pivots clearly are not connected to the support surface 20, nor do they in any way operate to pivot the support surface 20.

The Applicants note that the Examiner has been unsuccessful in finding any evidence that describes, teaches or suggests “at least one pivot assembly being operatively connected **to each of said first and second compression plates,**” as recited in claims 1 and 52, or “at least one pivot assembly being operatively connected **to each of said upper and lower compression plates,**” as recited in claim 24. Due to this inability to find relevant prior art references, the Examiner first attempted to summarily conclude that the limitations were “an obvious matter of design choice.” *See* October 2, 2007 Office Action at page 5. Because the Applicants demonstrated that such a baseless statement cannot support the rejection (*see, e.g.,* Appeal Brief at pages 18-21), the Examiner now attempts to form a novel and overly expansive definition of

“operatively connected.” See Examiner’s Answer at pages 7-8. Clearly, this cannot be the standard of establishing a *prima facie* case of obviousness. That is, obviousness cannot be established based on unsupported conclusions or, when that is shown to be erroneous, overly broad, novel and subjective definitions of claim terms. Instead, establishing a *prima facie* case of obviousness requires the Examiner to show where all claim limitations are found in the prior art. As detailed in the Appeal Brief, the Examiner has been unable to do so. Thus, the Applicants respectfully submit that claim rejections should be reversed.

II. The Proposed Combination Does Not Render claims 2 And 25 Unpatentable

Claim 2 recites, in part, “wherein said at least one pivot assembly comprises first and second pivot assemblies, wherein said first pivot assembly is operatively connected to said first compression plate, and said second pivot assembly is operatively connected to said second compression plate.” Claim 25 recites similar limitations.

The Examiner’s Answer states that Adamkowski “teaches of a second pivot assembly comprising a spring attached to **one of the compression plates** (Figs. 3-5 elements 34a and 34b).” See Examiner’s Answer at page 5 (emphasis added). The Examiner, however, acknowledges that these elements 34a and 34b are only attached to **one of the compression plates**. Indeed, Adamkowski discloses that only “the compression surface 32 of the present invention is angularly displaced or rotated by pivots 34a and 34b....” See Adamkowski at column 3, lines 11-13. The pivots are in no way operatively attached or connected to another plate, such as the support surface of the image receiver 20. See *id.* at Figures 1-5. That is, the

pivots do not operate to pivot the image receiver 20. Instead, they are only connected to the compression surface 32. Thus, Adamkowski, alone or in combination with Shmulewitz, does not describe, teach or suggest “wherein said at least one pivot assembly comprises first and second pivot assemblies, wherein said first pivot assembly is operatively connected to said first compression plate, and said second pivot assembly is operatively connected to said second compression plate,” as recited, for example, in claim 2. For at least these reasons, the proposed combination does not render claims 2 and 25 unpatentable.

III. The Proposed Combination Of Shmulewitz And Adamkowski Does Not Render Claims 5, 28 And 53 Unpatentable

As discussed in the Appeal Brief, the final Office Action does not even attempt to show where the limitations of claims 5, 28 and 53 are found in the cited references. *See* Appeal Brief at page 21. While Adamkowski discloses springs 42 between the compression surface 32 and the frame 30 that supports the compression surface 32, **these springs are not used to connect (i.e., join) the compression surface 32 to the breast supporting surface 20.** *See* Adamkowski at Figures 3 and 4 and column 3, lines 11-25. The Examiner unwittingly bolsters this point by reproducing Figures 3 and 4 of Adamkowski. *See* Examiner’s Answer at pages 8-9. These Figures show springs 42 between only the compression surface 32 and the frame 30 that supports that compression surface 32. **However, the support surface 20 is nowhere to be found in Figures 3 and 4.** Thus, Adamkwoski clearly does not show, describe, teach or suggest springs that connect the compression surface 32 to the breast supporting surface 20. That is, neither Shmulewitz, nor Adamkowski, describes, teaches or suggest “wherein said at least one pivot

assembly comprises a “**spring member that connects [one] compression plate to [another] compression plate,**” as recited in claim 5, 28 and 53.

IV. The Proposed Combination Of Shmulewitz And Adamkowski Does Not Render Claims 6, 29 And 54

The Examiner attempts to stretch the plain meaning of claims 6, 29 and 54 to somehow read on what is shown in Adamkowski. *See* Examiner’s Answer at page 9. Putting this strained logic aside, as explained in the Appeal Brief, the proposed combination of references does not describe, teach or suggest the limitations of claims 6, 29 and 54. *See* Appeal Brief at page 22. Indeed, as shown in the Figures of Adamkowski that the Examiner reproduces, while the plate 32 is joined to the frame by pivots 34a and 34b, the **plate 20 is not connected, i.e., joined, to any pivot assembly at all.** *See* Adamkowski at Figures 1, 2 and 5.

V. The Proposed Combination Of Shmulewitz, Adamkowski And Moore Does Not Render Claims 18, 40 and 63 Unpatentable

The Applicants demonstrate that the proposed combination of references does not describe, teach or suggest a “swivel member that **connects** said at least one pivot assembly **and** first and second compression plates to said upright member,” as recited, for example, in claim 18. *See* Appeal Brief at pages 22-23.

VI. Conclusion

For at least the reasons discussed above and in the Appeal Brief, the Applicants respectfully submit that the pending claims are allowable in all respects. Therefore, the Board is respectfully requested to reverse the rejections of pending claims 1-65.

Application Serial No. 10/616,319
Reply Brief
April 25, 2008

While no fee is believed due with respect to this Reply Brief, the Commissioner is nevertheless authorized to charge any necessary fees, or credit overpayment to Deposit Account 50-2401.

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Respectfully submitted,
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